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| Notice of Allowability | Application No. | Applicant(s) | |
| | 10/789,027 | MURATA ET AL. | |
| | Examiner | Art Unit | |
| | R. Stephen Dildine | 2112 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to _____.
 2. The allowed claim(s) is/are 1-12.
 3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
- Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.
4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of
 - Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date See Continuation Sheet
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

/R. Stephen Dildine/
Primary Examiner
Art Unit: 2112

Continuation of Attachment(s) 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date: 02/25/2004 and 04/04/2005.

Allowable Subject Matter

Claims 1-12 are allowed.

The following is an examiner's statement of reasons for allowance: None of the cited references teach or fairly suggest, in a communications system, a unit or method steps for holding plural bit-rate combination candidates in combination with a unit or method steps for applying error correction decoding processing as in applicants' claims 1-4, 9-12 or an error detecting means in combination with a data length determining means which determines a candidate for an initial data length for which an error could not be determined as in applicants' claims 5-8. It is noted that the units, means and method steps correspond to disclosed hardware items such as memories 63b, 63e, Viterbi decoder 63C, and voice codec 51 as well as receiver 61, demodulator 62, channel codecs 63 and 52 etc. thereby providing an invention having a useful, concrete and tangible result.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee *et al.* (20030126540) shows determining an error control protocol using error statistics, Reents *et.al.* (6,978,412) discloses adjusting data rate based on errors, Habatu *et.al.* (2006/0251176) teaches data length determination involving errors detection (unit 408 in Fig. 14), Paiss (7,010,731) teaches a method and apparatus to generate a quality indicator by measuring an error in coded mode bits of a received frame is provided where the quality indicator may be indicative of modes of a codec and Nakao (JP 2001177466 A, cited by applicant) discloses, in a CDMA communication system, determination which of plural channels is received, each channel having different error correction encoding.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Stephen Dildine whose telephone number is (571) 272-3820. The examiner can normally be reached on M - F 5:30 am to 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on (571) 272-6962. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2112

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

R. Stephen Dildine
Primary Examiner
Art Unit 2112

R. Stephen Dildine
Primary Examiner A.U. 2112